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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Forty-ninth session

SUMMARY RECORD OF THE 1157th MEETING

Held at the Palais des Nations, Geneva,
on Monday, 5 August 1996, at 3 p.m.

Chairman: Mr. BANTON

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The meeting was called to order at 3.05 p.m.

ORGANIZATIONAL AND OTHER MATTERS (agenda item 3) (continued)

1. The CHAIRMAN, referring to the timetable for the consideration of r submitted by States parties, said that the Bureau recommended the postpo until the Committee's fiftieth session of consideration of the reports o Panama and Guatemala, together with that of the Bahamas, which had promi submit its report by 15 November. Consideration of the report of Gabon be postponed until the fifty-first session. With regard to Lebanon, a representative of that country would be present on 9 August and would be verbally to agree to the postponement of his country's report until the fiftieth session on the understanding that it would reach the Committee end of November. If the representative of Lebanon said that would be difficult, the question of the date of submission of the next report cou reconsidered. During his visit he would also have an opportunity to dis the previous report with the rapporteur and gain a better idea of what t Committee expected of the next report.

2. Mr. ABOUL-NASR said that in view of the difficulties some countrie in submitting their reports, particularly if they had no representation Geneva, the Committee should not adopt too threatening a tone towards th

3. The CHAIRMAN said that the Government of the Bahamas had written t inform him that its report would be submitted late. In the case of Pana was the State party itself which had requested the postponement of consideration of the report.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES P UNDER ARTICLE 9 OF THE CONVENTION (agenda item 5) (continued)

Eighth, ninth, tenth, eleventh and twelfth periodic reports of Bolivia (CERD/C/281/Add.1; HRI/CORE/1/Add.54)

4. At the invitation of the Chairman, the members of the Bolivian del took seats at the Committee table.

5. Mr. LEMA PATIÑO (Bolivia) said that the report submitted to the Committee, which described all aspects of the situation of human rights Bolivian society, was self-explanatory.

6. Mr. LECHUGA HEVIA (Country Rapporteur) said that the report gave a account of the socio-economic problems which sometimes made it difficult implement the Convention, but like the previous reports, it left many questions unanswered. Linguistic problems, which the Committee on the Elimination of Discrimination against Women had reported in 1991 in the of Bolivia in particular, were an obstacle to the defence of the rights indigenous people and to communication between the various social groups combination with illiteracy, that was necessarily a hindrance to the implementation of the Convention. In order to determine which populatio groups were most discriminated against, therefore, the Committee would n more precise data on the ethnic composition of the population. When the previous report had been submitted, it had been stressed that linguistic differences did not necessarily mean racial differences, but information

that question was still inadequate. The geographical isolation of certain communities was another problem to be taken into account in assessing the situation of all population groups. The Government of Bolivia admitted that, despite all its efforts, problems still existed for certain isolated ethnic groups, such as the Guarani people, but it might be asked what precisely was being done or planned to remedy those problems.

7. It also seemed that the situation of children in Bolivia left much to be desired. Since more than one third of the population lived in poverty, it was obvious that adopting constitutional or legislative measures was not enough and that other more practical measures were required. The forward-looking initiatives of the Minors' Code, the 1993 Judicial Organization Act, the decrees recognizing special rights and territories for the indigenous people, compulsory teaching of human rights in schools, military colleges and police academies, and the Popular Participation Act should be welcomed. It was, however, surprising that the Educational Reform Act, the purpose of which was to do away with all inequalities in education and which the authorities presented as a wholly progressive initiative, should have given rise to strong protest on the part of teachers and pupils. It would be interesting to hear how the delegation explained that fact.

8. The establishment of the National Organization for Children, Women and the Family, a Human Rights Department in the Ministry of Justice and an Ombudsman should further enhance the observance and promotion of fundamental rights. But despite all those institutional and legal improvements, practical problems remained, notably with regard to equality between men and women, equality before the law and access to the courts. It was clear that the protection of the rights of the Quechua and Aymara ethnic groups, for example, required the adoption of specific measures to supplement declarations of principle, as the Committee had been stressing since the early reports.

9. A number of gaps also remained in respect of article 4 of the Convention, since the Bolivian Penal Code did not classify racism or any other form of racial discrimination as an offence. Where article 3 was concerned, Bolivia had supported the United Nations resolutions condemning apartheid in South Africa when it had still existed, but in its General Recommendation XIX (47) the Committee had made it clear that racial segregation was not restricted to apartheid in South Africa and that the States parties should continue to exercise extreme vigilance in that regard. Further progress was still necessary in the implementation of articles 6 and 7 regarding access to the courts, education, culture and information. With regard to employment, the ILO Committee responsible for considering government reports had noted that 1992 Bolivian legislation on public service employment contained no provisions prohibiting discrimination, as ILO Convention No. 111 required. Regarding ILO Convention No. 169 (Indigenous and Tribal Peoples Convention), the same Committee had noted a certain degree of conflict in Bolivia between respect for cultural diversity and a tendency to absorb traditional institutions into the dominant cultural systems.

10. The recent confrontations between police and students or coca-leaf producers raised certain questions with regard to article 5. Where

coca-growing was concerned, the Committee would like an assurance that the conflict with the indigenous communities in question had no racial connotations.

11. Lastly, the Committee welcomed the frank manner in which the Bolivian authorities had described their difficulties and their concern to continue trying to resolve the problems that arose in a multi-ethnic and multicultur context.

12. Mr. van BOVEN said that the special measures the Bolivian Government taken in support of the indigenous people, especially in recognizing their lands, seemed to be in keeping with the requirements of article 2, paragraph 2, of the Convention. However, he would like to know how the Bolivian authorities reconciled recognition of the indigenous territories w the prohibition of racial segregation contained in article 3. He would als like details on Decree No. 22,612, mentioned in paragraph 20 of the report, which should make it possible to designate indigenous ethnic groups and peoples. Mr. Lechuga Hevia had rightly pointed out that Bolivia had not do enough to penalize incitement to racial discrimination or to implement article 4, which was in fact binding. Lastly, the Bolivian Government had admitted frankly that certain categories of persons did not have access to penal system (para. 44 of the report) or were marginalized from the educat system and certain social services, but had not said what specific measure were envisaged to remedy that situation. The next report should provide m information in that regard.

13. Mrs. ZOU DECI expressed regret that the report said nothing about the steps taken to remedy the dramatic situation of the Guaraní population mentioned in paragraph 22 of the report. Paragraph 27 (b) of the report stated that the Bolivian Penal Code did not classify racism or any form of social discrimination as an offence. She asked whether the Bolivian Government was planning a revision of the Code in order to bring legislati into line with international law.

14. Mr. DIACONU noted that the Bolivian Constitution contained some very progressive provisions very much in keeping with the Convention. He also noted that the Educational Reform Act provided that no distinctions should made on the grounds of the ethnic group, culture or region of the person concerned. He welcomed the fact that the Convention was part of the Boliv legal system and could be directly invoked in the courts. It remained to seen precisely what the relationship was between Bolivian law and the Convention and which instrument applied when a law was at variance with th provisions of the Convention.

15. Merely mentioning several indigenous peoples did not give the Commit clear idea of their place in Bolivian society. For that the Committee wou need to know what proportion of the population each people represented. I would also need specific examples to show that the country had set out on road to the elimination of racial discrimination opened by the Constitutio and that it had enacted laws for that purpose, as enjoined by article 2, paragraph 1 (d), of the Convention. Some action had already been taken to that end, such as the delimitation of indigenous territories whose resourc were exploited by the indigenous people occupying them, but he was surpris that the Guaranís, for example, whose difficult situation the report

recognized, did not possess such a territory, especially following the findings of the Human Rights Commission of the Chamber of Deputies in 1994.

16. He associated himself with Mr. Lechuga Hevia and Mr. van Boven in calling for measures under article 4 of the Convention to combat and punish incitement to racial discrimination. Referring to paragraphs 28 and 29 of the report, which described the murder of Mormon missionaries from the United States and the sentence handed down against the murderers, he asked whether similar acts had not been committed against indigenous Bolivians and how Bolivian justice had reacted in those cases. The matter was related to another of the Committee's concerns - the implementation of article 6 of the Convention and the administration of justice in Bolivia. It was clear that many Bolivians had no access to justice, if only because of the language barrier.

17. Lastly, he wished to know whether there were schools where indigenous pupils were taught their native language as well as Spanish.

18. Mr. de GOUTTES associated himself with the previous speakers in welcoming the frankness which characterized the report under consideration. He emphasized the clarity of the core document (HRI/CORE/1/Add.54), which contained a comprehensive picture of the social and economic situation in Bolivia and set out the problems to which the observance of human rights gave rise. He noted that paragraph 258 of the document referred to the human rights violations perpetrated by the special police against peasant coca-leaf producers in the context of the campaign against drug-trafficking. That was a problem caused by the clash of two pressing requirements: the need to combat drugs and the need to protect the rights of persons under investigation. Similarly, paragraph 39 of the periodic report bluntly listed the factors which characterized the blatant inequality of Bolivian citizens in the eyes of the law. According to paragraph 44 of the report, it was not only specialists but also the general public who denounced the fact that it was impossible for poor people and non-Spanish speakers to have access to justice.

19. Referring to the implementation of article 4 of the Convention, he in turn noted that the provisions of the Penal Code mentioned in paragraph 27 of the report in no way represented the domestic legislation that article 4 required to be adopted. Paragraphs 28 and 29 of the report, which described punishment for racist acts, gave only a single example of the sentencing of the perpetrators of such acts, which, as Mr. Diaconu had correctly said, was not significant. Since the crime punished had in any case been committed by terrorists against United States nationals, the example was even ambiguous.

20. Paragraphs 45-48 of the report, which described the implementation of article 7 of the Convention, did give useful information on the aims of the Educational Reform Act of 7 July 1994 - popular participation and cross-cultural education. However, they gave no details of any measures taken in support of the most disadvantaged ethnic groups in the areas of education and cultural development.

21. Mr. WOLFRUM, reverting to the question of education, asked, in view of the information contained in paragraphs 12 and 13 of the core document (HRI/CORE/1/Add.54), what had been done to facilitate the access of the

inhabitants of rural regions and indigenous people to primary, secondary and higher education. In that connection "education" must not be equated with "assimilation".

22. Referring to the impact study carried out with the participation of the region's indigenous organization (para. 18 of the report), he asked for a clarification of the somewhat vague use of the word "participation" and inquired whether the inhabitants of the indigenous territories were protected with regard to mining, which was a State prerogative, as they were in the case of road-construction and forestry.

23. Mr. BANTON, speaking as a member of the Committee, said that he was aware of the difficulties that some States encountered in providing figures and statistics. As stated in paragraph 8 of the General Guidelines regarding the Form and Contents of Reports, in the absence of such information the Committee would be happy to have qualitative data and subjective evaluations.

24. Some experts had raised the question of the inequality suffered by the ethnic groups, in education for example. It might be said that combating inequality did not come within the Committee's purview but, given that its mandate was to identify the causes of discrimination, it should consider cases in which those causes were to be sought in inequality in respect of education and development.

25. Mr. LECHUGA HEVIA, recalling that in 1992 the second Ibero-American Summit had approved the setting-up of a fund to promote the progress of the indigenous populations of Latin America and the Caribbean, asked what the results of that initiative had been in Bolivia.

26. Mr. CHIGOVERA, referring to paragraphs 10 and 11 of the report, pointed point out that although the Convention was indeed part of Bolivian domestic law, it was not of itself enforceable. He asked how it was implemented in practice.

27. Mr. PATIÑO (Bolivia) assured the Committee that practical measures had been taken in all the areas mentioned; he would give details the following Wednesday.

28. The delegation of Bolivia withdrew.

Tenth, eleventh, twelfth and thirteenth periodic reports of Brazil (CERD/C/263/Add.10; HRI/CORE/1/Add.53)

29. At the invitation of the Chairman, the members of the Brazilian delegation took seats at the Committee table.

30. Mr. VERGNE SABOIA (Brazil) said that the report of Brazil (CERD/C/263/Add.10), to which an independent research institute of the University of São Paulo, the Centre for Studies on Violence, had contributed, contained a comprehensive description of the measures and policies adopted up to May-June 1995. He would therefore limit himself to commenting on certain aspects and supplying more recent information of relevance to the work of the Committee.

21. Although Brazil had always repudiated racism and racial discrimination and relations between the various racial groups were not conflictual, the social and economic situation of the black or coloured population was generally worse than that of whites, and discrimination on racial grounds was not unknown. His Government had accordingly taken steps to improve the living conditions of blacks and coloured people, who accounted for 44.2 per cent of the population. Brazil had the second biggest black population in the world, after Nigeria. His Government attached great importance to improving the situation of that population, not only by recognizing the role of blacks in the practical and cultural construction of Brazil, but also by implementing policies which would guarantee equal access to the advantages of citizenship for everyone. It had already succeeded in bringing down inflation, the first victims of which were the poor, the majority of them black or coloured. It was currently endeavouring to carry out various important constitutional reforms in the fiscal, administrative and social security spheres, for example, and was also taking positive action in support of persons of African origin who suffered most from social inequalities.

22. On 20 November 1995, an interministerial working group, coordinated by Mr. Soutos, a member of the Brazilian delegation, had been set up to prepare policies for the advancement of the black population. Since February 1996, the group had been meeting regularly and had set up subgroups to define and implement policies in the following areas: information (race or colour would be taken into account in official documents and statistics, so as to provide a statistical basis for the formulation of policies specifically targeting the black population); labour and employment (measures to improve implementation of ILO Convention No. 111 and to combat discrimination in employment); communication (promotion of an appropriate image of blacks in the media and in official public relations and cultural programmes); education (promotion of non-discrimination and tolerance in the school system by including those issues in primary syllabuses and a choice of textbooks emphasizing the history and struggles of the black people in the construction of the Brazilian nation, without stereotypes or discrimination); international relations (dissemination abroad of an image of Brazil as a multiracial society and the expansion of relations between Brazil and the countries of Africa, in particular the Portuguese-speaking countries, and the Caribbean); agrarian policy (recognition of the Quilombo communities' right of ownership of the land they occupied and issue of property titles by the State); affirmative action (survey of the experience of other countries in that area and how it could be adapted to Brazilian society); advancement of black women (especially the question of reproductive rights); racism and violence (compilation of anti-discriminatory legal provisions at the federal and State levels, and possible formulation of new legislation); health (inclusion of race or colour in birth and death certificates, consideration of the health situation of the black population, formulation of a national programme to combat sickle-cell anaemia, which mainly affected the black population, and efforts to combat myoma and high blood pressure); black religion and culture (fostering of the cultural production of the black population and protection of Afro-Brazilian cultural and religious manifestations); sport (implementation, with the support of the National Institute for the Development of Sport, of projects geared to young blacks); and lastly, studies, research, science and technology (promotion of studies on race-related issues by higher academic and research institutions).

33. Among the mechanisms set up by the working group the sub-group for health had been the first to produce concrete results. Among other things, it had organized a working visit to the Kalunga community in Goiás (the largest and most isolated of the remaining groups of Quilombos); the aim had been to achieve a proper balance between sustainable development and the cultural preservation of the communities in question. Other noteworthy events had included the launching of a National Human Rights Plan of Action on 13 May 1996, the visit in June 1995 of the Special Rapporteur on Contemporary Forms of Racism, Racial Discrimination, Xenophobia and Related Intolerance, cooperation with African countries (establishment of the Zone of Peace and Cooperation in the South Atlantic (ZPCAS) and the Community of Portuguese-Speaking Countries (CPLP)), and the admission of refugees from Africa, mainly Angola.

34. With regard to the indigenous populations, his Government was firmly committed to the demarcation of indigenous lands in Brazil, as provided for in the Constitution. More than one tenth of Brazilian territory - over 900,000 square kilometres - was set aside for the permanent usufruct of the indigenous population, totalling some 330,000 citizens, and the work of demarcation was continuing. The Government had also requested from the National Foundation for Indians (FUNAI) further information which took account of the opinions of anthropologists.

35. The National Plan of Action for Human Rights comprised specific activities in support of the indigenous populations, particularly with regard to health (adoption of a differentiated model taking into account the special features of the indigenous populations) and education (provision of specific and differentiated schooling respectful of the social and cultural values of each particular group), and also the dissemination of information on their rights through the media and in schools, lack of information being one of the causes of violence against indigenous peoples. Another goal of the National Plan was the ratification of ILO Convention No. 169.

36. Mr. de GOUTTES (Country Rapporteur), noting that Brazil had not submitted a report since March 1987, welcomed the resumption of the dialogue between that country and the Committee.

37. Unfortunately, he had been given only the English version of the thirteenth periodic report of Brazil. He nevertheless, recognized that that report, together with the core document of 10 January 1995 (HRI/CORE/1/Add.53), contained some in-depth, detailed and interesting information on the general demographic, social, political, economic and institutional framework within which the Convention was implemented. At the same time, however, some of the information on the implementation of articles 2-7 of the Convention seemed too theoretical, too exclusively juridical and limited to the analysis of enactments.

38. The country's demographic profile (dealt with in paras. 20-46 of the thirteenth periodic report and paras. 5-7 of the core document) was perhaps one of the main keys to the situation in Brazil and the attendant problems. In that connection, he noted that some of the figures in the thirteenth report were quite out of date: a total population of 147,305,524 according to the 1990 census (para. 20), whereas according to the most recent information, the population of Brazil was about 160 million. Did the Brazilian delegation

possess any more recent statistics? The data also needed to be harmonized: the figure in the core document was 146.1 million inhabitants, according to the 1991 national census.

39. A second important characteristic of Brazil was the ethnic and racial pluralism of its population (para. 20 of the thirteenth report, para. 6 of the core document). It would be useful to the Committee to have some additional explanations concerning several indicators: the increase in the coloured population resulting from the large number of interracial marriages - although the number of marriages between blacks and whites remained low, the increase in the urban population, the unequal distribution of racial groups throughout the country, the increased life expectancy - smaller among the urban population, and lastly the steady decline in the fertility rate.

40. Another feature of Brazil was the inequalities among ethnic and racial groups (paras. 23-46 of the report and accompanying statistical tables). He welcomed the frank treatment in the report of the disparities which still existed in all social fields despite the Government's efforts: school enrolment and levels of education, illiteracy rates, life expectancy, occupation, incomes, and family living conditions. He noted that the thirteenth periodic report and the core document referred to only five ethnic groups, (whites, coloureds, Negroes, Indians and, as a minor group, Asians), and said nothing about other categories of the population (immigrants, foreigners of various origins, for example). It would be useful if the Brazilian delegation would provide some information in that regard.

41. The 1995 core document also gave a good overview of Brazil's economic and political context. Paragraphs 8-13 referred to the stabilization programme launched in July 1994 to stem inflation (the Real plan) and important reforms in the economic field and in respect of social security and the civil service. Some of the figures given were very positive but more recent economic information drew attention to certain difficulties about which the Committee would like to have more details: difficulties related to the ongoing reforms with regard to tax policy, social welfare, the restructuring of the banking sector and agrarian reform; difficulties deriving from deteriorating public finances and the unfavourable economic situation in Latin America since the Mexican crisis; and lastly, difficulties inherent in poverty and social inequalities in general.

42. Paragraphs 14-24 of the core document contained a useful summary of Brazilian history and the country's political and administrative organization. The Committee would, however, like additional information on the political fallout from the recent social difficulties in Brazil: the ministerial reshuffling after the peasant disturbances and several reported massacres, particularly that of 17 April 1996 in Pará; pressure from opposition movements hostile to the reform programme, strengthened by the prospect of the October 1996 municipal elections and the 1998 presidential elections; incidents between the supporters of President Cardoso and leaders of the opposition, etc.

43. He would also like to know what point had been reached in the process of revising the Constitution. Bearing in mind the statement in the core document that fundamental rights could be subject to restrictions in a "state of defence" or "state of siege", he wondered in what circumstances such situations

could be proclaimed. Was it possible in such conditions to impose restrictions on all fundamental rights and freedoms? And how could the provisions on the state of siege or defence be reconciled with those in paragraph 4-IV of article 60 of the Constitution, which prohibited any amendment of the basic law serving to restrict individual rights? In addit to a recapitulation of legislation, it would also be desirable for the Committee to have specific information on the number and kind of the investigations carried out by the Council for the Defence of Human Rights o the Public Prosecutor's Department or by the General Office for the Defence Indian Rights.

44. The Brazilian periodic report contained several interesting pieces of information relating to the provisions of article 2 of the Convention, wher all States parties undertook to eliminate racial discrimination. With rega to the new Constitution of 5 October 1988, he noted the efforts of the Legislature to promote the right to racial and ethnic equality. He also dr attention to a number of innovations. The new Constitution made racism an imprescriptible crime, whereas before it had been regarded only as a crimin misdemeanour. Under the new text, the provisions regarding fundamental rig and guarantees became binding and immediately applicable to any private or public person and could no longer be the subject of any restrictive amendme

45. Paragraphs 54 and 70 of the report, enumerated a whole series of laws which, together with the Constitution, made it possible to combat or punish racism. The information given in those paragraphs was certainly useful to Committee but it needed to be backed by figures and specific examples of th effective implementation of those laws. The Committee would like to know t point reached in the proposed reforms mentioned in the report, in particula the bill to include in the Criminal Code a section on crimes against the equality and honour of persons and the two bills mentioned in paragraph 74 the periodic report, namely draft resolution 43 (1991) concerning the establishment of a congressional Human Rights Committee and Bill No. 4338/9 regarding mention of a person's colour in documents and public procedures. would also be interesting to know the stage reached with regard to the curr proposal to establish a National Commission for Equality of Opportunities within the Ministry of Justice (para. 75 of the report). And what was the situation regarding the Conselho do Programa Comunidade Solidária made up o representatives of civil society referred to in paragraph 75 of the report? Lastly, what had been the results of the establishment of a "special police station" for racial crimes referred to in paragraph 66 of the report, which supposed, according to that report, to have begun operating in June 1993?

46. With regard to measures taken against groups or bodies of a racial character, the Committee would like more information on the legislative provisions which made it possible to ban such organizations and punish thei members, the number of prosecutions brought and penalties imposed on such organizations, and the various types of racist organization which existed Brazil. Along with the neo-Nazi groups, were there other bodies, targetin the Indian, black or peasant populations, for example?

47. It would also be interesting to know whether steps had been taken to support organizations and movements combating racism, in particular the various anti-racist movements set up following recent racist incidents in which blacks, Jews and inhabitants of the north-east of Brazil had been

attacked. In addition, further details should be given on the role of the churches, the Bar and the trade unions in defending the poorest populations and the nature of their relationships with the authorities.

48. Welcoming the positive special measures adopted to protect and promote the most disadvantaged racial or ethnic groups (paras. 168 and 187 of the periodic report), he acknowledged that policy towards those populations was not easy to define, since it must reconcile two apparently contradictory objectives: preserving their culture and traditions and bringing about their gradual integration into national life. Nevertheless, the analysis of government action in paragraphs 175 et. seq. of the report made it possible to identify the priority areas: the protection of Indian lands coveted by mining corporations, prospectors and farmers of all kinds, a matter that was, moreover, linked to the protection of the Amazonian forest; the demarcation of those lands; the regularization of Indian property rights; the expulsion of clandestine settlers; the protection of Indian populations against intimidation, extortion and acts of violence by farmers, mercenaries in the pay of landowners, and even members of the military police in some cases; and the general social protection of Indian populations, in the fields of health and education, preservation of their language and integration into Brazilian society. The Committee therefore booked forward with interest to any information that the Brazilian delegation could provide about the future programme of action in support of the Indian populations. It would also like specific information on interventions by the authorities having special jurisdiction with regard to the protection of the rights of the indigenous inhabitants, and particularly federal judges. Another important question was whether the Brazilian Government had now ratified the ILO Convention concerning Indigenous and Tribal Peoples which, according to the periodic report, was currently being examined by Congress, or whether it was preparing to do so?

49. While noting the determination of the Brazilian authorities to combat the discrimination to which the black population continued to be subjected, the Committee would like to know more precisely what the Government envisaged doing in the future to deal with the main instances of such discrimination in the fields of education and employment.

50. Still in connection with article 2 of the Convention, the Committee would like specific information on the steps taken by the Government to ensure greater protection for the rights of peasant populations, as well as inhabitants of the favelas and street children.

51. Regarding article 4 of the Convention, paragraphs 54, 70, 134, 146 and 147 of the periodic report contained useful information on legislation designed to combat genocide, crimes of hatred, racist propaganda or the dissemination of racist ideology, discrimination against consumers, discrimination by public officials, and in particular the various offences of a racial nature targeted in Law No. 7,716 of 5 January 1989 especially discrimination in the field of labour and employment and refusal to provide services. However, the Committee did not yet have all the information it needed to be assured that Brazilian penal legislation was fully in accordance with the provisions of article 4 of the Convention as a whole. Thus, there

was no clear indication in the report whether or not there were laws punishing acts of racial violence or incitement to such acts, or insults or defamation of a racial nature.

52. With respect to article 5 of the Convention, paragraphs 86-147 of the periodic report indicated the many provisions of the Constitution and laws which guaranteed the exercise of the rights enumerated in paragraphs (a) to (e) of that article. Although it was complete from the legal standpoint, the list suffered from two shortcomings: first, being too theoretical, it did not enable the Committee to judge how the provisions were implemented. Specific examples of the effective implementation of certain laws (in particular, those concerning genocide, abuse of authority, racial discrimination by public officials, discrimination in employment, refusal to provide services in establishments open to the public, racial discrimination in the media and discrimination against consumers) would be welcome. In the case of the principle of equality of employment and access to public office, the Committee would like accurate statistics on the number of Indians and blacks in Congress, the civil service, the army, the police, the legal profession and education. It would also be interesting to know whether or not the fact that illiterates were not eligible indirectly prevented persons from the poorest sectors of society from standing for election and it would be useful for the Committee to have information on socio-economic indicators of non-integration for the most disadvantaged groups, in particular, in the case of Indians and blacks, the unemployment rate, the percentage of homeless, morbidity and mortality rates, the percentage of persons in prison, and the illiteracy rate. In that connection, what was the extent of phenomena such as delinquency, drug addiction, alcoholism, prostitution and suicide within those groups?

53. Despite the existence of much legislation on the protection of disadvantaged groups, many social inequalities remained in practice, as the periodic report frankly admitted. With regard to the civil rights enumerated in article 5, paragraph (d), of the Convention, paragraph 174 of the report noted that article 6 of the Civil Code, which had been drafted in 1916 and was still in force, considered Indians to be incapable of performing certain acts of civil life and subjected them to a regime of tutelage which, according to the article, would cease as they adapted to the country's civilization. Even though the 1988 Constitution now recognized the legal capacity of the Indians, article 6 of the Code should be repealed.

54. With regard to the right to security of person and protection against violence (Convention, art. 5 (b)), several information sources had drawn attention to intimidation, acts of violence and summary executions perpetrated against peasant populations, posseiros (landless peasants) and Indians by mercenaries in the pay of land owners, but also by death squads and even members of the military police. The Committee would like specific information from the Brazilian delegation on those particularly disturbing developments.

55. In connection with article 6 of the Convention, the periodic report contained some interesting information on the laws guaranteeing the protection of persons against racial discrimination, but there were few statistical data on the effective utilization of available remedies. Moreover, the figures provided were unusually low, for which there were two possible explanations: either the victims of the racism brought no complaints because they were not

sufficiently well informed of their rights or had no confidence in the police and the judicial system in their country, or the complaints were not successful because the police authorities did not attach enough importance to offences of a racial nature. Also, the figures were incomplete because they applied only to certain offences and dealt only with penal means of recourse. It was essential, therefore, that the Government should, in its next report, provide more complete statistics on complaints, investigations, cases not followed up, convictions and acquittals by the courts, on reparation granted in respect of all categories of offences of a racial nature, on the utilization of the other remedies mentioned in paragraph 41 of the core document, and on the number of interventions by the special police responsible for the prevention and punishment of racism and by the Council for the Defence of Human Rights. It would also be useful to know whether, in Brazil, the human rights associations or the groups defending certain segments of the population could themselves bring charges or use other means of recourse on behalf of persons whose interests they represented. Lastly, the Committee would like to know whether the Brazilian Government envisaged making the declaration provided for in article 14 of the Convention. By doing so, it would clearly demonstrate its determination to implement the Convention to the full.

56. With regard to article 7 of the Convention, the periodic report contained replies to several questions put by the Committee in 1987 concerning measures to protect and promote the cultural rights of the Indian and Afro-Brazilian populations. The Committee would note in that regard the many positive measures and initiatives that had been taken. Nevertheless, profound inequalities remained between whites, on the one hand, and blacks and Indians, on the other, in particular with regard to levels of literacy and school and university education. It was therefore very important for the Brazilian Government to keep the Committee fully informed of the efforts it continued to devote to the struggle against the racial and ethnic discrimination which still existed in those areas. It would also be interesting to have specific information on the steps taken by the authorities not only to promote the principles of the Convention, but also to bring to the attention of the public Brazil's periodic reports and the Committee's observations on them. And it would be advisable, as the Human Rights Committee had pointed out in its conclusions of 24 July 1996, for the Brazilian Government to inform the Committee on the Elimination of Racial Discrimination of the steps taken to promote human rights education and a spirit of interracial tolerance among those responsible for law enforcement, in particular members of the military police, who were too often involved in violent incidents.

57. Mr. van BOVEN said that he did not understand why a separate chapter of the report was devoted to the situation of the Indian populations, thus giving the impression that they were a separate group from the rest of the population. He wondered whether that approach was in accordance with the spirit of the Convention.

58. In addition, the Committee had received a great deal of information on legislative instruments but little on specific cases, in particular cases that had come before the courts. He hoped that succeeding reports would devote more attention to the judicial decisions to which such cases had given rise.

He was not sure that the laws in force corresponded to the provisions of the Convention, in particular those of article 6, referring to the reparation to which the victims of discriminatory measures were entitled.

59. Lastly, it would be interesting to know whether the Brazilian authoritie were willing to publish the reports prepared pursuant to the Convention and the concluding observations of the bodies set up under the various human rights instruments.

The meeting rose at 6 p.m.